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 United States of America

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION

UNITED STATES OF AMERICA,

 Plaintiff,

 vs.

 NAGESH SHETTY, et al.,

 Defendants.

No. SACV12-930 DOC (MLGx)

STIPULATION AS TO LIEN
 PRIORITY TO IRVINE PROPERTY
 BETWEEN UNITED STATES OF
 AMERICA, ORANGE COUNTY
 TREASURER-TAX COLLECTOR,
 CITIMORTGAGE, INC., and STATE
 OF CALIFORNIA, through its agency
 THE FRANCHISE TAX BOARD ;
 [proposed] Order lodged concurrently
 herewith

The United States of America (“United States,” “IRS”, or “plaintiff”),
 defendant Orange County Treasurer-Tax Collector (“Orange County”), defendant
 CitiMortgage, Inc., and defendant State of California, through its agency the
 Franchise Tax Board (“Franchise Tax Board” or “FTB”), through their
 undersigned counsel, stipulate as follows as to their relative order of priority to the
 Irvine Property (described below):

1. On June 11, 2012, plaintiff filed its COMPLAINT (1) TO REDUCE
 JOINT FEDERAL TAX ASSESSMENTS TO JUDGMENT; (2) FOR A

1 DETERMINATION THAT REAL PROPERTY IS TITLED TO RICHARD
2 D'SOUZA AS NOMINEE OR IN RESULTING TRUST FOR THE BENEFIT OF
3 NAGESH SHETTY AND ANITA SHETTY; (3) TO SET ASIDE FRAUDULENT
4 TRANSFER OF REAL PROPERTY FROM NAGESH SHETTY AND ANITA
5 SHETTY TO RICHARD D'SOUZA; and (4) TO FORECLOSE FEDERAL TAX
6 LIENS ON REAL PROPERTIES (hereinafter "**Complaint**").

7 2. The United States seeks an order foreclosing its tax liens upon two
8 real properties ("**the Subject Properties**").

9 3. The first real property against which the United States seeks to
10 foreclose its tax liens (hereinafter "**the Huntington Beach Property**") is titled to
11 A. Nagesh Shetty and Anita E. Shetty as trustees of the Shetty Family Trust, dated
12 February 27, 1991, and is located in Huntington Beach, California, within the
13 county of Orange, with assessor's parcel no. 149-371-14, and is legally described
14 as: LOT 63 OF TRACT. NO. 5664, AS PER MAP RECORDED IN BOOK 424
15 PAGES 31 TO 34 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE
16 COUNTY RECORDER OF SAID COUNTY AND STATE.

17 4. The second real property against which the United States seeks to
18 foreclose its tax liens (hereinafter "**the Irvine Property**") is located at 31
19 Capobella, Irvine, California, within the County of Orange, with assessor's parcel
20 no. 447-421-02, and is legally described as: LOT 47 OF TRACT NO. 12713, IN
21 THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA,
22 AS SHOWN ON A MAP RECORDED IN BOOK 586, PAGES 27-32
23 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE
24 COUNTY CALIFORNIA.

25 5. Defendant CitiMortgage, Inc., was made a party to this action
26 pursuant to 26 U.S.C. § 7403(b) due to its interest in the Irvine Property pursuant
27 to a Deed of Trust securing a loan in the amount of \$276,450.00 for the purchase
28 of the Irvine Property ("**Subject Irvine Property Loan**") in favor of California

1 Federal Savings and Loan Association recorded in the County of Orange at
2 instrument no. 88-498375 on September 30, 1988 ("**Irvine Property Deed of**
3 **Trust**"). A copy of the Irvine Property Deed of Trust was attached to the
4 Complaint as Exhibit 29. CitiMortgage, Inc., is the successor in interest to
5 California Federal Savings and Loan Association with respect to the Irvine
6 Property Deed of Trust attached as Exhibit 29 to the Complaint.

7 6. Defendant Orange County was made a party to this action pursuant to
8 26 U.S.C. § 7403(b) based upon Certificates of Delinquency of Personal Property
9 Tax and Certificates of Lien for Unsecured Property Taxes recorded in the County
10 of Orange at instrument nos. 1999-838922, 1999-752452, 2001-130061, 2009-
11 00542627, and 2011-00020343. Defendant Orange County has valid and
12 subsisting liens based upon the certificates recorded at instrument nos. 2009-
13 00542627 and 2011-00020343. Defendant Orange County asserts no continuing
14 interest based upon the certificates recorded at instrument nos. 1999-838922, 1999-
15 752452, 2001-13006. Defendant Orange County also currently has a lien interest
16 for *ad valorem* property taxes on the Irvine Property for the 2012-2013 tax year.

17 7. Defendant Franchise Tax Board was made a party to this action
18 pursuant to 26 U.S.C. § 7403(b) due to its interest in the Subject Properties due to
19 liens arising from its state income tax liabilities against Nagesh Shetty and Anita
20 Shetty for tax years 1987, 1988, 1989, 1994 and 1995.

21 8. The undersigned parties to this stipulation do not dispute the validity
22 or continued attachment of each other's liens and agree that the relative priorities
23 of their respective interests against the Irvine Property are as follows:

24 ///

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Creditor (in order of priority)	Basis of Claim	Balance Due (Through Date)	Recorded at Instrument Number (Date)
Orange County	<i>Ad Valorem</i> Property Tax 2012-2013	\$4,895.22 (12/10/2012)	N/A
CitiMortgage, Inc.	Irvine Property Deed of Trust	\$98,673.59 (10/1/2012)	88-498375 (9/30/1988)
Franchise Tax Board	1994 and 1995 state income tax liabilities	\$43,805.13 (10/17/2012)	01-93113 (2/21/2001) & extension at 2011000075806 (2/10/2011)
United States	Lien for Fine and/or Restitution Pursuant to Antiterrorism and Effective Death Penalty Act of 1996 for December 7, 2000, judgment in SACR 98-105 GLT, U.S. Dist. Ct., C.D. Cal.	\$41,804.49 (10/9/2012)	20010448233 (7/5/2001)
Franchise Tax Board	1987, 1988, & 1989, state income tax liabilities	\$288,901.89 (10/17/2012)	2003000226557 (2/28/2003)
United States	1987, 1988, 1989, 2006, 2007, 2009, and 2010 Federal income tax liabilities	\$1,214,862.09 (6/30/2012)	20020337915 (4/23/2002), 2007000439215 (7/13/2007), 2007000453937 (7/19/2007), 2007000457241 (7/20/2007), & 2010000107069 (3/5/2010) ¹
Orange County	Unsecured property taxes	\$309.90 (10/31/2012)	2009-00542627 (10/13/2009)
United States	2007 and 2009 Federal income tax liabilities	\$18,882.62 (6/30/2012)	2010000678808 (12/16/2010)
County of Orange	Unsecured property taxes	\$422.26 (10/31/2012)	2011-00020343 (1/11/2011)
United States	2006 & 2010 Federal income tax liabilities	\$25,847.44 (6/30/2012)	N/A

9. Interest and penalties as provided by law will continue to accrue on the above-stated amounts after the stated through-dates. Within thirty (30) days of

¹ 2007000453937, 2007000457241, and 2010000107069 were "nominee" notices of federal tax lien for the same liabilities already secured by the prior notices. Notices of Federal Tax Lien were refiled at 2010000403492, 2010000403493, 2010000403494, and 2010000403495 (8/19/2012).

1 written request by the United States and/or the Court, to the undersigned
2 defendants, through their counsel, the undersigned defendants will provide payoff
3 information regarding their respective liens referred to in this Stipulation.

4 10. The undersigned defendants are named in this lawsuit only because of
5 their respective lien interests in the Irvine Property and not due to any wrongdoing
6 or omissions. The Complaint does not seek any monetary judgment against the
7 undersigned defendants. While the Complaint seeks a determination of the
8 interests of the undersigned defendants to clear title to any subsequent purchaser,
9 by virtue of this Stipulation, the Complaint will not be found to seek to extinguish
10 any liens asserted by the undersigned defendants and, in that regard, will act only
11 to ensure satisfaction of the undersigned defendants' respective lien interests from
12 the proceeds of the foreclosure or judicially ordered sale of the Irvine Property in
13 the order of priority agreed to herein.

14 11. CitiMortgage, Inc., reserves its rights and remedies under the Irvine
15 Property Deed of Trust, including the right to conduct a non-judicial foreclosure
16 sale.

17 12. Plaintiff acknowledges that in connection with any Judgment with
18 respect to plaintiff's prayers for relief in the Action, unless and until the Subject
19 Irvine Property Loan secured by the Irvine Property Deed of Trust is fully
20 satisfied, the Subject Irvine Property Loan shall not be deemed satisfied, and the
21 Irvine Property Deed of Trust shall not be extinguished or impaired in any way.
22 As a senior interest to the interests of the United States, the property sold in
23 foreclosure (or judicially ordered sale) will be sold subject to the Irvine Property
24 Subject Deed of Trust to secure the unsatisfied balance (with interest and accruals
25 thereon) of the Irvine Property Loan.

26 13. Under California Revenue and Taxation Code sections 2187, 2192,
27 and 2193, as of January 1 of each calendar year, defendant Orange County
28 Treasurer-Tax Collector will have a new lien against the Irvine Property securing

1 the payment of unpaid *ad valorem* taxes on the Irvine Property for the succeeding
2 tax year. Under California Revenue and Taxation Code section 2192.1, defendant
3 Orange County Treasurer-Tax Collector's liens securing the payment of unpaid *ad*
4 *valorem* taxes against the Irvine Property have priority over all other liens on the
5 Irvine Property, regardless of the time of their creation.

6 14. The undersigned defendants do not oppose plaintiff's right to judicial
7 foreclosure of its Federal tax liens on the Irvine Property. The undersigned
8 defendants also agree not to oppose the right of the United States to stay, or
9 decline to pursue, its right of foreclosure.

10 15. Defendant CitiMortgage, Inc., will not be required to further respond
11 to the pleadings, appear at any hearings or conduct any otherwise required
12 disclosure in this action for the purpose of defending or prosecuting its interest in
13 the Irvine Property as described above, unless ordered by the Court.

14 16. With respect to defendants Orange County and Franchise Tax Board,
15 they will be relieved of participating in this action upon the entry of an order
16 resolving the priority of interests to the Huntington Beach Property or, if that order
17 has already been entered, upon the entry of the order upon the instant stipulation.

18 17. The undersigned defendants understand, however, that they remain
19 subject to the jurisdiction of the Court and, on proper notice to their counsel under
20 the Federal Rules of Civil Procedure, they may be required to provide documents,
21 information, or testimony relevant to the issues in the ongoing litigation between
22 plaintiff and the remaining defendants in this case. The undersigned defendants
23 reserve their right to assert objections to any and all requests or demands for the
24 provision of such documents, information, or testimony.

25 18. In the event that this Stipulation is not entered as an Order of the
26 Court, the contents herein, except with respect to relieving the parties of further
27 participation in this case, shall nevertheless be binding on the undersigned parties.

28 19. The successors or assignees of the undersigned parties shall be bound

1 by the terms agreed to in this stipulation.

2 20. The undersigned parties agree to bear their own costs and attorney's
3 fees as against each other. The undersigned parties reserve their rights to seek
4 costs and fees from others not party to this stipulation.

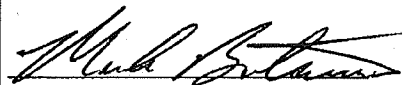
5 21. The undersigned defendants agree to be bound by the judgment of the
6 Court as to United States of America's right to judicial foreclosure of its Federal
7 tax liens.

8 22. Plaintiff agrees that any proposed final Judgment and/or Decree it
9 lodges or files in this case with respect to the foreclosure or judicially ordered sale
10 of the Irvine Property will include and incorporate by reference all of the terms of
11 this Stipulation and attached proposed Order.

12 **IT IS SO STIPULATED.**

13 Respectfully submitted,

14 NICHOLAS S. CHRISOS,
15 County Counsel

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17 
18 MARK BATARSE
19 Deputy County Counsel
20 *Attorneys for Orange County*
Treasurer-Tax Collector

21 Date: 11/5/12

22
23
24 JENNIFER J. MAAS
25 Wolfe & Wyman LLP
26 *Attorneys for CitiMortgage, Inc.*

27 Date: _____

ANDRE BIROTTE, JR.,
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SANDRA R. BROWN,
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DANIEL LAYTON Asst. U.S. Attorney
Attorneys for the United States of America
Date: _____

KAMALA D. HARRIS
Attorney General of California
W. DEAN FREEMAN
Supervising Deputy Attorney General

MARLA K. MARKMAN
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Attorneys for State of California,
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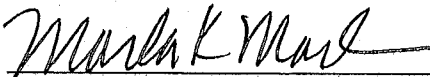
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DANIEL LAYTON Asst. U.S. Attorney
Attorneys for the United States of America
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MARLA K. MARKMAN
Deputy Attorney General
Attorneys for State of California,
Franchise Tax Board

27 Date: _____

28 Date: 11/15/12

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20 *Attorneys for Orange County*
21 *Treasurer-Tax Collector*

22 Date: _____

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25 JENNIFER J. MAAS
26 *Wolfe & Wyman LLP*
27 *Attorneys for CitiMortgage, Inc.*

28 Date: 11-15-12

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Date: 11/15/2012

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Attorney General of California
W. DEAN FREEMAN
Supervising Deputy Attorney General

MARLA K. MARKMAN
Deputy Attorney General
Attorneys for State of California,
Franchise Tax Board
Date: _____

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of the United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7211, Los Angeles, California 90012.

On **November 16, 2012**, I served Stipulation as to Lien Priority to Irvine Property Between USA, Orange County Treasurer-Tax Collector, Citimortgage, Inc., and State of California, through its agency The Franchise Tax Board on the person and entity name below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

SEE ATTACHED.

Date of mailing: **November 16, 2012**.

Place of mailing: Los Angeles, California

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **November 16, 2012**, Los Angeles, California.



MARIA LUISA Q. BULLARD

USA V. NAGESH SHETTY
SA CV 12-930 DOC(MLGx)

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